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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200405
Party	Defendant Nature & Innovation
Correspondence Address	MAURICE B PILOSOFF LAW OFFICES OF MAURICE B PILOSOFF 1925 CENTURY PARK EAST , SUITE 2300 LOS ANGELES, CA 90067 UNITED STATES mpilosofo@ipbymbp.com
Submission	Other Motions/Papers
Filer's Name	Maurice B. Pilosof
Filer's e-mail	mpilosofo@ipbymbp.com
Signature	/Maurice B. Pilosof/
Date	06/26/2012
Attachments	n&I FILED RESP DEF.pdf (7 pages)(720816 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Casella Wines Pty Ltd.)	
an Australian corporation,)	Serial No.: 79/072,117
)	
)	Opposition No. 91200405
v.)	
)	
Nature & Innovation)	
a French (SAS))	
)	
)	
Applicant.)	

APPLICANT'S RESPONSE TO DEFAULT NOTICE AND REQUEST FOR SETTING ASIDE DEFAULT

Applicant Nature & Innovation, by its undersigned counsel, hereby moves to set aside the default and moves the Trademark Trial and Appeal Board (the "Board") to accept its Answer, a copy of which is attached hereto as Exhibit 1.

Applicant's application to register the mark as depicted below was filed on April 29, 2009, and it was assigned Serial No. 79072117.



Applicant's mark was published for opposition on April 26, 2011. Opposer, Casella Wine Pty Ltd., initiated this opposition proceeding on June 24, 2011, with respect to one of the classes identified in the three class application. The parties entered into two stipulations to suspend the proceedings on the basis of ongoing settlement negotiations. The parties were engaged in settlement negotiations at the time the Notice of Default was entered. Applicant has recently communicated its acceptance of certain remaining provisions in the proposed settlement agreement to Opposer's counsel. While Applicant believes this proceeding will be resolved by

way of settlement, Applicant maintains that it has a meritorious defense to the opposition. However, Applicant also believes a settlement agreement can also be reached.

Applicant maintains that good cause is shown in the instant case under the guidelines set forth in *Fred Hayman Beverly Hills Inc. v Jacques Bernier Inc.*, 21 U.S.P.Q.2d 1556 (TTAB 1991). Therefore, the default should be set aside, and Applicant's answer made of record.

As stated above, almost from the inception of this proceeding, Applicant's counsel has been in contact with Opposer's counsel in an effort to resolve this proceeding by way of settlement. Applicant, as stated, has recently communicated through its undersigned counsel its acceptance of certain provisions that remained at issue. The current terms of the settlement agreement have been arrived at through multiple exchanges between the parties' respective counsel. There has been no prejudice to Opposer. as Opposer through its counsel, has been fully engaged in settlement discussions with Applicant. Applicant's proposed answer, attached hereto as Exhibit 1, satisfies the requirement of Applicant having a meritorious defense. Applicant has always intended to defend against the Opposition if it was unable to resolve this matter.

Applicant maintains that while it awaits a response to its latest settlement communication from Opposer's counsel that the Board accept its answer attached hereto as Exhibit 1. Applicant respectfully submits that it has shown good cause for the Board to accept its answer, and for the Board to set aside the default. Applicant, therefore, respectfully requests that the Board set aside the default and further accept and make of record the attached Answer.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Maurice B. Pilosof", is written over a horizontal line.

Maurice B. Pilosof, Attorney for Applicant

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Opposer,)	Opposition No. 91200405
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Nature & Innovation)	
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Applicant.)	

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing APPLICANT'S RESPONSE TO DEFAULT NOTICE AND REQUEST FOR SETTING ASIDE DEFAULT upon Opposer's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid on June 26, 2012, addressed as follows:

David M. Perry, Esq.
BLANK ROME LLP
One Logan Square
Philadelphia, PA 19103

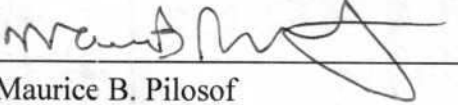

Maurice B. Pilosof

EXHIBIT 1

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)	
v.)	Opposition No. 91200405
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Nature & Innovation)	
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ANSWER

Applicant Nature & Innovation (“NATURE”) hereby answers the Notice of Opposition filed by Opposer, Casella Wines Pty Ltd., in opposition to U.S. Trademark Application Serial No. 79/072,117 (“Application”) filed by Nature. With reference to the numbered paragraphs of the Notice of Opposition, Nature answers as follows:

1. NATURE lacks information sufficient to form a belief as to the averments of Paragraph 1 and accordingly they are denied.
2. NATURE lacks information sufficient to form a belief as to the averments of Paragraph 2 and accordingly they are denied.
3. NATURE lacks information sufficient to form a belief as to the averments of Paragraph 3 and accordingly they are denied.
4. NATURE lacks information sufficient to form a belief as to the averments of Paragraph 4 and accordingly they are denied.
5. NATURE repeats and incorporates its answers set forth in the preceding paragraphs 1 through 4.

6. NATURE admits, in part, the allegations contained in paragraph 6 but denies that all of the goods recited in NATURE's application are related.

7. NATURE admits the allegations contained in paragraph 7.

8. NATURE lacks information sufficient to form a belief as to the averments of Paragraph 8 and accordingly they are denied.

9. Denied.

10. Denied.

11. Denied.

12. Denied.

13. NATURE repeats and incorporates its answers set forth in the preceding paragraphs 1 through 12.

14. Denied.

15. NATURE lacks information sufficient to form a belief as to the averments of Paragraph 15 and accordingly they are denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

AFFIRMATIVE DEFENSES

1. The Notice of Opposition fails to state a claim upon which relief may be granted.

2. There is no likelihood of confusion between Applicant's Application and the mark cited in the Notice of Opposition.

WHEREFORE, Applicant Nature & Innovation prays that:

1. The Notice of Opposition be dismissed; and

2. The Application be approved for registration.

Respectfully submitted,

By: Maurice Blatny

Maurice B. Pilosof, Esq.
1925 Century Park East, Suite 2300
Tel: 310 985 4283